

**RULES  
OF  
DEPARTMENT OF COMMUNITY HEALTH**

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**111-2  
HEALTH PLANNING**

**111-2-2  
Certificate of Need**

**111-2-2-.26 Specific Review Considerations for Psychiatric and Substance Abuse Inpatient Programs.**

**(1) Definitions.**

(a) "Psychiatric or substance abuse inpatient program," for purposes of these Rules, means an organized entity with a specific plan and intent to serve a special population via designated staff in designated beds in a licensed hospital. Such a program provides services on a 24-hour, seven days per week basis. The characteristics of a program shall include:

1. a clear, distinct plan which includes admission policies and criteria, treatment protocol, etc.; and
2. appropriately trained personnel for the age and disability group to be served by the program; and
3. all of the beds in a program are designated for patients in that specific program.

(b) "Acute care psychiatric or substance abuse inpatient program," for purposes of these Rules, means a psychiatric or substance abuse program, as defined in 111-2-2-.26(1)(a), that provides acute and/or emergency stabilization and other treatment for acute episodes. An acute care program provides medically oriented evaluation, diagnosis, stabilization, and short-term treatment using individual and/or group therapies as well as other treatment activities. The average length of stay of patients is usually 45 days or less for adults and usually 120 days or less for children and/or adolescents. Five programs are defined: adult psychiatric, adult substance abuse, adolescent psychiatric,

adolescent substance abuse, and child psychiatric. Substance abuse care for children is included in the child psychiatric program.

(c) "Extended care psychiatric or substance abuse inpatient program," for purposes of these Rules, means a psychiatric or substance abuse program, as defined in rule 111-2-2-.26(1)(a), that focuses on self-help and basic living skills to enhance the patient's abilities to perform successfully in society upon discharge by emphasizing psycho-social, vocational and/or prevocational, and educational components in its treatment plan. The program is designed to treat people who do not require acute care and who usually have already had at least one acute care admission. Due to this design, the staffing of extended care programs is different from that of acute care programs by having proportionately more therapeutic activities, educational, and social work staff and proportionately fewer nurses and physicians. The average daily costs and charges for extended care are expected to be no more than half that of acute care programs. The average length of stay of patients is usually five months or more for adults and usually one year or more for children and adolescents. Two programs are defined: adult psychiatric and substance abuse and adolescent/child psychiatric and substance abuse.

(d) "Adults," for purposes of these Rules, means persons 18 years of age and over.

(e) "Adolescents," for purposes of these Rules, means persons 13 through 17 years of age.

(f) "Children," for purposes of these Rules, means persons 12 years of age and under.

(g) "Public sector bed," for purposes of these Rules, means a bed located in state owned and operated psychiatric and substance abuse regional hospitals which are maintained by the Department of Human Resources, Division of Mental Health, Mental Retardation, and Substance Abuse.

(h) "Private sector bed," for purposes of these Rules, means a bed located in a freestanding psychiatric and/or substance abuse hospital or in an organized psychiatric and substance abuse program in a general or other specialty hospital, regardless of ownership, that is not a public sector bed.

(i) "Freestanding psychiatric and/or substance abuse hospital," for purposes of these Rules, means a self-contained hospital which provides only psychiatric and/or substance abuse treatment and is licensed as a separate hospital, either as a specialized hospital or specialized hospital/intensive residential treatment facility.

(j) "Combined program," for purposes of these Rules, means an entity designed to serve two or more of the distinct programs defined in 111-2-2-.26(1)(a) and (1)(b) and which has flexibility to utilize the beds among these distinct programs as needed by the patients present in the facility at a particular time.

(k) "Number of beds," for the Department 's official inventory of psychiatric and substance abuse beds, shall be the number of existing and approved beds designated for each organized program in a hospital as follows:

1. psychiatric and substance abuse beds in organized programs shall be designated for specific programs defined in 111-2-2-.26(1)(b) and (1)(c), and each

bed shall be designated for a single, distinct program. A hospital operating a combined program shall designate, for inventory purposes, the number of beds to be allocated to each distinct program included in the combined program; and

2. the total number of psychiatric and/or substance abuse beds in a hospital shall equal the sum of the number of psychiatric and substance abuse beds by program as follows:

(i) for private, freestanding psychiatric and/or substance abuse hospitals, the total number of existing beds shall be the maximum evaluated bed capacity of the hospital as established by the Department in conjunction with the Department of Human Resources, Office of Regulatory Services; and

(ii) for hospitals, including state regional hospitals, other than freestanding psychiatric and/or substance abuse hospitals, the total number of existing beds shall be the sum of the numbers of psychiatric and substance abuse beds reported to the Department as set-up and staffed for each organized program; and

3. changes in the inventory shall occur by the use of program specific information obtained from sources including, but not limited to, the following:

(i) from the edited Psychiatric and Substance Abuse Services Addendum to the Annual Hospital Questionnaire;

(ii) through Certificate-of-Need and other Department approvals for new or expanded programs;

(iii) through changes in Certificate-of-Need status as appropriate, including, but not limited to, situations listed under rule 111-2-2-.02;

(iv) following a program not having been offered at the hospital within a 12-month period as stated in 111-2-2-.01(33)(d);

(v) through changes and approvals of changes in the hospital's maximum evaluated capacity under 111-2-2-.03(1)(o);

(vi) by official notice from the hospital of changes in the number and/or distribution of its psychiatric and/or substance abuse beds; and

(vii) by use of special surveys conducted by the Department.

(l) "Planning area," for purposes of these Rules, means the official planning area established in the most recent official State Health Component Plan for Psychiatric and Substance Abuse Inpatient Programs.

(m) "Similar program," for purposes of these Rules, means an approved or existing organized program as defined in 111-2-2-.26(1)(a). that provides services to the same age group (adults, adolescents, or children), the same disability (psychiatric or substance abuse), and for the same treatment model (acute or extended).

(n) "Psychiatric and/or substance abuse service," for purposes of these Rules, means any combination of organized psychiatric and substance abuse programs in a hospital.

(o) "Most recent year," for purposes of these Rules, means the most current 12-month period preceding the month of the date the Department deems the application complete for which data are available.

(p) "Most recent official Department report year," for purposes of these Rules, means the latest report year for the Department's Annual Indigent Care Survey.

(q) "Aggregate occupancy rate," for purposes of these Rules, means the occupancy rate calculated by dividing the total number of inpatient days utilized in a planning area by the total number of bed days available in a planning area for a specific period of time.

(r) "Net bed need," for purposes of these Rules, means the number of program beds projected for a planning area minus the number of existing and approved program beds listed in the official Department inventory in the planning area.

**(2) Standards.**

(a) For the public sector, a Certificate-of-Need is not required for new or expanded psychiatric/substance abuse programs as long as the number of beds proposed within the state system does not exceed the total number needed statewide based on the need methodology as described in 111-2-2-.26(2) and as long as the capital costs of a proposed project do not exceed the Certificate-of-Need threshold. It is expected that the distribution of beds among programs in the state hospitals will be guided by the need methodology. When a Certificate-of-Need is required, the standards listed in 111-2-2-.26(2) will apply as appropriate.

(b) For the private sector, a Certificate-of-Need is required prior to:

1. the establishment of a new psychiatric or substance abuse program; or
2. capital expenditures for an existing program which exceed the Certificate-of-Need threshold; or
3. the increase of beds in an existing program except when the increase is exempt according to 111-2-2-.03(1)(o) or when the bed increase in an existing program does not result in an increase in the maximum evaluated bed capacity of the facility.

(c) The need for a new or expanded acute psychiatric and/or substance abuse program(s) will be determined as follows:

1. the net bed need for the planning area demonstrates the need for the beds in each proposed program. The net bed need is determined by the application of the program specific bed need methodology described in the current official State Health Component Plan for Psychiatric and Substance Abuse Inpatient Programs; and

2. the aggregate occupancy rate for the most recent year of all similar programs in the planning area is 80 percent or more for adult programs and 75 percent or more for adolescent or child programs.
- (d) The Department may allow an exception to the need standard referenced in (2)(c), in order to remedy an atypical barrier to acute psychiatric and/or substance abuse services based on cost, quality, financial access, or geographic accessibility. An applicant seeking such an exception shall have the burden of proving to the Department that the cost, quality, financial access, or geographic accessibility of current services, or some combination thereof, result in a barrier to services that should typically be available to citizens in the planning area and/or the communities under review. In approving an applicant through the exception process, the Department shall document the bases for granting the exception and the barrier or barriers that the successful applicant would be expected to remedy.
- (e) The minimum bed size of a new acute psychiatric or substance abuse program is eight beds.
- (f) The minimum bed size of a new freestanding psychiatric and/or substance abuse hospital primarily providing acute care and licensed as a specialized hospital is 50 beds.
- (g) The minimum number of designated beds in the aggregate of any and all acute psychiatric and/or substance abuse programs in a general hospital is 15 beds.
- (h) An applicant for a new or expanded acute psychiatric and/or substance abuse program(s) shall document that the program(s) will be financially accessible by:
  1. providing sufficient documentation that unreimbursed services for indigent and charity patients in a new or expanded program(s) will be offered at a standard which meets or exceeds three percent of annual gross revenues for the program after provisions have been made for bad debt, and Medicaid and Medicare contractual adjustments have been deducted. If an applicant, or any facility in Georgia owned or operated by the applicant's parent organization, received a Certificate-of-Need for a hospital program(s) or service(s) or a total facility and the CON included an expectation that a certain level of unreimbursed indigent and/or charity care would be provided in the program(s), service(s), or hospital(s), the applicant shall provide sufficient documentation of the facility's(ies') provision of such care. An applicant's history, or the history of any facility in Georgia owned or operated by the applicant's parent organization, of not following through with a specific CON expectation of providing indigent and/or charity care at or above the expected level will constitute sufficient justification to deny an application; and
  2. agreeing to participate in the Medicare and Medicaid programs, whenever these programs are available to the facility.
- (i) An application for a new or expanded acute psychiatric and/or substance abuse program(s) in an existing hospital involving an increase in the maximum evaluated bed capacity of the hospital shall not be approved unless the applicant provides sufficient documentation that it is not appropriate to convert existing hospital beds to beds designated for the proposed program(s) or to close existing hospital beds. If the hospital

is a general hospital, the documentation shall include, but not be limited to, application of the Department 's appropriate general hospital bed need methodology.

(j) An application for a new acute psychiatric and/or substance abuse program(s) in a proposed or Certificate-of-Need approved new general hospital shall not be approved unless the total number of beds in the hospital is determined as needed by application of the Department 's appropriate bed need methodology for new general hospitals.

(k) An applicant for a new or expanded acute psychiatric and/or substance abuse program(s) shall provide evidence that the location of the new or expanded program beds improves the distribution of beds for similar programs, existing or approved, within the planning area based on the geographic and demographic characteristics of the planning area. If the applicant provides evidence that there does not exist an appropriate location for the proposed program in another portion of the planning area, the proposed program may be approved in the same portion of the planning area as a similar existing or approved program(s). Failure to provide sufficient justification will constitute adequate reason to deny an application.

(l) If acute medical treatment is not available at the hospital proposing the new or expanded acute program(s), the applicant shall document the existence of referral arrangements with an acute care general hospital(s) within a 30-mile radius to provide acute and emergency medical treatment to any patient who requires such care.

(m) An applicant for a new or expanded acute psychiatric and/or substance abuse program(s) in an existing hospital shall provide sufficient documentation concerning the facility's accreditation by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), if so accredited, and also shall provide sufficient documentation that the hospital has no history of significant licensure deficiencies and/or no history of conditional level Medicare certification deficiencies in the past three years.

(n) Favorable consideration may be given to any applicant for new or expanded acute program(s), which historically has provided and/or provides sufficient documentation of plans to provide:

1. cost-effective alternative services such as partial hospitalization, day treatment programs, and outpatient therapy with an associated shorter average length of inpatient stay; and/or

1. a higher percentage of unreimbursed services to indigent and charity patients than required by the indigent and charity care standard of 111-2-2-.26(2)(h); and/or

3. a broad range of needed services, especially those that are not financially profitable, that may include designation by the Georgia Department of Human Resources as an emergency receiving, evaluation, and/or treatment facility; agreements or contracts to treat patients referred through state programs; and/or services for special populations, such as individuals with multiple disabilities, the elderly, or other documented underserved populations; and/or

4. services that involve the conversion of existing, underutilized hospital beds to beds designated for the new or expanded program(s) when such conversion is a cost effective alternative.

(o) An applicant for an expanded acute psychiatric and/or substance abuse program(s) shall provide sufficient documentation that each of the following criteria is met:

1. if the program has been operating three or more years, an 80 percent occupancy rate for an adult program or a 75 percent occupancy rate for an adolescent or child program for the most recent year; or, if the program has been operating for less than three years, documentation of community and referral based support and an increase in utilization since the time opened such that it is reasonable to assume that the desired occupancy rate would be achieved by the third year; or, if the program has been approved but has not begun operating and the proposal to expand meets the placement criteria in 111-2-2-.26(2)(k) and is merited by the history of the facility and/or the history of any facility in Georgia owned or operated by the applicant's parent organization in terms of factors including, but not limited to, providing quality care and financial accessibility; and

2. if the program was operating during the most recent official Department report year, unreimbursed services for indigent and charity patients in that program have been offered during that period at a standard which meets or exceeds three percent of annual gross revenues of the program after provisions have been made for bad debt, and Medicare and Medicaid contractual adjustments have been deducted. If the total hospital has provided this level of unreimbursed indigent and charity care during the most recent official Department report year, this standard will be considered to have been met. If the program was not operating during the most recent official Department report year, sufficient documentation shall be provided that the hospital provided this level of unreimbursed indigent and charity care during the most recent official Department report year. If the hospital in which the program is located was not operating during the most recent official Department report year, sufficient documentation shall be provided that the program or, if the applicant chooses, the hospital provided this level of indigent and charity care since the program or hospital was in operation. If the hospital has been approved but has not begun operating, this standard will be waived.

(p) An applicant for a new or expanded acute psychiatric and/or substance abuse program(s) shall provide sufficient documentation that the proposal is consistent with each of the following as specified in the current State Health Component Plan for Psychiatric and Substance Abuse Inpatient Programs:

1. quality: program quality; and
2. continuity: adequacy of policies governing admissions and availability of adequate discharge planning; and
3. cost containment: financial feasibility; and
4. acceptability: patients' rights.

(q) The need for a new or expanded extended care psychiatric and substance abuse program(s) will be determined as follows:

1. the net bed need for the planning area demonstrates the need for the beds in each proposed program. The net bed need is determined by application of the program specific bed need methodology described in the current official State Health Component Plan for Psychiatric and Substance Abuse Inpatient Programs; and
  2. the aggregate occupancy rate for the most recent year of all similar programs in the planning area is greater than or equal to 85 percent.
- (r) The Department may allow an exception to the need standard referenced in (2)(q), in order to remedy an atypical barrier to extended care psychiatric and/or substance abuse services based on cost, quality, financial access, or geographic accessibility. An applicant seeking such an exception shall have the burden of proving to the Department that the cost, quality, financial access, or geographic accessibility of current services, or some combination thereof, result in a barrier to services that should typically be available to citizens in the planning area and/or the communities under review. In approving an applicant through the exception process, the Department shall document the bases for granting the exception and the barrier or barriers that the successful applicant would be expected to remedy.
- (s) The minimum bed size of a new, extended care psychiatric and substance abuse program is eight beds.
- (t) The minimum bed size of a new freestanding psychiatric and/or substance abuse hospital primarily providing extended care and licensed as a specialized hospital or a specialized hospital/intensive residential treatment facility is 50 beds.
- (u) The minimum number of designated beds in the aggregate of any and all extended care psychiatric and substance abuse programs in a general hospital is 15 beds.
- (v) An applicant for a new or expanded extended care psychiatric and/or substance abuse program(s) shall document that the program(s) will be financially accessible by:
1. providing sufficient documentation that un-reimbursed services for indigent and charity patients in a new or expanded program(s) will be offered at a standard which meets or exceeds three percent of annual gross revenues for the program after provisions have been made for bad debt, and Medicaid and Medicare contractual adjustments have been deducted. If an applicant, or any facility in Georgia owned or operated by the applicant's parent organization, received a Certificate-of-Need for a hospital program(s) or service(s) or a total facility and the CON included an expectation that a certain level of un-reimbursed indigent and/or charity care would be provided in the program(s), service(s), or hospital(s), the applicant shall provide sufficient documentation of the facility's (ies') provision of such care. An applicant's history, or the history of any facility in Georgia owned or operated by the applicant's parent organization, of not following through with a specific CON expectation of indigent and/or charity care at or above the expected level agreed to will constitute sufficient justification to deny an application; and
  2. agreeing to participate in the Medicare and Medicaid programs, whenever these programs are available to the facility.



(w) An application for a new or expanded extended care psychiatric and/or substance abuse program(s) in an existing hospital involving an increase in the maximum evaluated bed capacity of the hospital shall not be approved unless the applicant provides sufficient documentation that it is not appropriate to convert existing hospital beds to beds designated for the proposed program(s) or to close existing hospital beds. If the hospital is a general hospital, the documentation shall include, but not be limited to, application of the Department 's appropriate general hospital bed need methodology.

(x) An application for a new extended care psychiatric and substance abuse program(s) in a proposed or Certificate-of-Need approved, new general hospital shall not be approved unless the total number of beds in the hospital is determined as needed by application of the Department 's appropriate bed need methodology for new general hospitals.

(y) An applicant for a new or expanded extended care psychiatric and substance abuse program(s) shall provide evidence that the location of the new or expanded program beds improves the distribution of beds for similar programs, existing or approved, within the planning area, based on the geographic and demographic characteristics of the planning area. If the applicant provides evidence that there does not exist an appropriate location for the proposed program in another portion of the planning area, the proposed program may be approved in the same portion of the planning area as a similar existing or approved program. Failure to provide sufficient justification will constitute adequate reason to deny an application.

(z) If acute medical treatment is not available at the hospital proposing the new or expanded extended care program(s), the applicant shall document the existence of referral arrangements with an acute care general hospital(s) within a 30-mile radius to provide acute and emergency medical treatment to any patient who requires such care.

(aa) An applicant for a new or expanded extended psychiatric and substance abuse program(s) in an existing hospital shall provide sufficient documentation concerning the facility's accreditation by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), if so accredited, and also shall provide sufficient documentation that the hospital has no history of significant licensure deficiencies and/or no history of conditional level Medicare certification deficiencies in the past three years.

(bb) Favorable consideration may be given to an applicant for a new or expanded extended care program(s), which historically has provided and/or provides sufficient documentation of plans to provide:

1. cost-effective alternative services such as partial hospitalization, day treatment programs, residential programs, and outpatient therapy with an associated shorter average length of inpatient stay; and/or
2. a higher percentage of un-reimbursed services to indigent and charity patients than required by the indigent and charity care standard of 111-2-2-.26(2)(v); and/or
3. a broad range of needed services, especially those that are not financially profitable, that may include designation by the Georgia Department of Human Resources as an emergency treatment facility, agreements or contracts to treat patients referred through state programs, and/or services for special populations,

such as individuals with multiple or severe disabilities, the elderly, the chronically mentally ill, or other documented underserved populations; and/or

4. services that involve the conversion of existing, underutilized hospital beds to beds designated for the new or expanded program(s), when such conversion is a cost effective alternative.

(cc) An applicant for an expanded extended care psychiatric and substance abuse program(s) shall provide sufficient documentation that each of the following criteria is met:

1. if the program has been operating three or more years, an 85 percent occupancy rate for the most recent year; or, if the program has been operating for less than three years, documentation of community and referral based support and an increase in utilization since the time opened such that it is reasonable to assume that the desired occupancy rate would be achieved by the third year; or, if the program has been approved but has not begun operating and the proposal to expand meets the placement criteria in 111-2-2-.26(2)(y) and is merited by the history of the facility and/or the history of any facility in Georgia owned or operated by the applicant's parent organization in terms of factors including but not limited to providing quality care and financial accessibility; and

2. if the program was operating during the most recent official Department report year, un-reimbursed services for indigent and charity patients in that program have been offered during that period at the standard which meets or exceeds three percent of annual gross revenues of the program after provisions have been made for bad debt, and Medicare and Medicaid contractual adjustments have been deducted. If the total hospital has provided this level of un-reimbursed indigent and charity care during the most recent official Department report year, this standard will be considered to have been met. If the program was not operating during the most recent official Department report year, sufficient documentation shall be provided that the hospital provided this level of un-reimbursed indigent and charity care during the most recent official Department report year. If the hospital in which the program is located was not operating during the most recent official Department report year, sufficient documentation shall be provided that the program or, if the applicant chooses, the hospital provided this level of indigent and charity care since the program or hospital was in operation. If the hospital has been approved but has not begun operating, this standard will be waived.

(dd) An applicant for a new or expanded extended care psychiatric and substance abuse program(s) shall document that the proposal is consistent with each of the following as specified in the current official State Health Component Plan for Psychiatric and Substance Abuse Inpatient Programs:

1. quality: program quality; and

2. continuity: adequacy of policies governing admissions and availability of adequate discharge planning; and

3. cost containment: financial feasibility; and

4. acceptability: patients' rights.